

Application No. 09/939,412  
Amendment dated November 12, 2004  
Reply to Office Action of August 24, 2004

## **REMARKS**

Claims 1-7,13-29, 41 and 42 are pending in the application. Claims 17-29 have been withdrawn from consideration. The Examiner rejected Claims 13 and 15 and objected to Claims 14 and 16. Claims 1-7, 41 and 42 are allowed.

### **Claim Rejections**

The Examiner rejected Independent Claim 13, and Claim 15 depending therefrom, as being anticipated by the prior art disclosed in Figs. 1 and 2 of the present application. Claim 13 calls for a bone plate assembly including, *inter alia*, a bone plate having elongate plate and blade portions connected to one another at a bend, the plate portion having a first hole therein and a second hole therein which is disposed intermediate the first hole and the bend, a strut screw disposed through the first hole, and a top a screw disposed through the second hole, the top screw extending angularly to one side of the strut screw.

Applicants respectfully submit that Figs. 1 and 2 fail to disclose a top screw extending angularly to one side of the strut screw as called for in Independent Claim 13. Fig. 1 is a *partial* sectional view (page 6, line 1) and a cutting plane line is not provided to demonstrate where the section is taken. Partial sectional views allow features of an object, which may not be coplanar, to be conveniently illustrated in one figure. However, absent a cutting plane line or additional description, the relative relationship of these features cannot be determined. For example, Figs. 1 and 2 do not disclose whether, e.g., screws 46a and 46b extend angularly to one side of strut screw 46c or are inserted parallel to the strut screw on opposing sides thereof. Further, nowhere in the specification are screws 46a and 46b disclosed as extending angularly to one side of strut screw 46c. Applicants respectfully submit that the relative position and orientation of screws 46a, 46b and 46c cannot be determined from Figs. 1 and 2, and the description thereof and therefore Figs. 1 and 2 fail to disclose a top screw extending angularly to one side of the strut screw as called for in Independent Claim 13.

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Not only is the claimed arrangement of a top screw extending angularly to one side of a strut screw not disclosed by Figures 1 and 2 and the description thereof, but such a configuration is also not suggested by the description of the prior art embodiment depicted in Figures 1 and 2 of the present specification. Referring to the first paragraph of the Detailed Description, Figures 1 and 2 of the present application are provided to illustrate large size fillet radius 54 of bone plate 42. Screws 46a-f are depicted in Figure 1 merely to show that when bone plate 42 is secured to bone 44, large gap 56 exists between plate portion 48 and outer surface 58 of bone 44. Screws 46a and 46b are not depicted or described as extending angularly to one side of strut screw 46c, nor is such a configuration suggested. Because Figures 1 and 2 do not disclose or suggest a top screw extending angularly to one side of the strut screw as called for in Independent Claim 13, Applicants respectfully submit that Independent Claim 13 and Claim 15 depending therefrom are in condition for allowance.

### **Allowable Subject Matter**

Applicants appreciate the indication of allowable subject matter in Claims 14 and 16. In view of the arguments advanced above, Applicants respectfully submit that Claims 14 and 16 are in condition for allowance with Independent Claim 13 from which they depend. Applicants appreciate the allowance of Claims 1-7, 41 and 42.

It is believed that the above represents a complete response to the Office Action and reconsideration is requested. Specifically, Applicants respectfully submit that the application is in condition for allowance and such action is earnestly solicited.

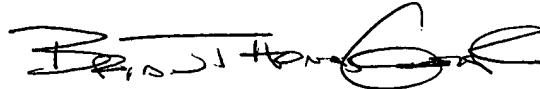
In the event Applicants have overlooked the need for an extension of time or payment of fee, Applicants hereby petition therefor and authorize that any charges be made to Deposit Account No. 02-0385, BAKER & DANIELS.

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If any questions concerning this application should arise, the Examiner is encouraged to telephone the undersigned at 260/424-8000.

Respectfully submitted,

BAKER & DANIELS



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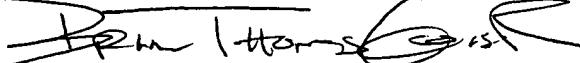
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Brian Thomas Geisler, No. 54,115  
NAME OF REGISTERED REPRESENTATIVE



SIGNATURE

November 12, 2004  
DATE